FINANCE EXP A (1945) **Department.**

Ms. **SERIES.**

**G.O. No.** 1304

1309

**Dated** 14-12-45

Close

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**[Despatch[r] Abstract.]**

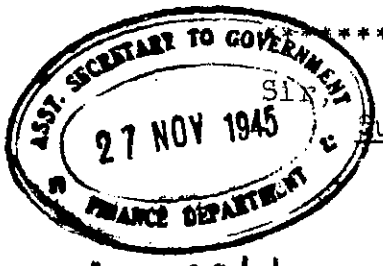
Local Fund Audit Department - Surcharge - Appeal - O.P. no. 44 of 1944 on the file of the District Court, Bellary - Payment of fees and costs to Govt. Pleader, and costs to petitioner - Sanctioned.

LOCAL FUND AUDIT DEPARTMENT.

From (Name) P.Mohan Rau, Esq., Examiner of Local Fund Accounts, Kilpauk P.O., MADRAS.

To The Secretary to Government, Finance Department, Fort St., George, MADRAS.

L.F.No.6422 Dated: 26th November 1945.




Sir,

Sub:- SURCHARGE - Kottur Panchayat Board - Bellary District O.P.No.44/1944 on the file of the District Court Bellary - payment of costs and fees - sanction requested.

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I forward herewith for perusal and return certified copies of judgment and decretal order of the District Judge, Bellary relating to the surcharge certificate issued in this department L.F.No.2395 dated 4th July 1944. In this Original Petition costs amounting to Rs.17-12--0 have been decreed to be paid to the petitioner and the Government Pleader, Bellary has claimed Rs.15--0--0 towards his fee and Rs.3--4--0 towards court costs - vide letter No.Ref.4547/44-B1 dated 22nd October 1945 from the Collector, Bellary (copy enclosed). In respect of the claim of the Government Pleader, the Collector of Bellary has stated in his letter that sum of Rs.17-12--0 has already been paid to the Government Pleader from his office contingencies and as such he should be reimbursed to that extent from the amount sanctioned towards the claim of the Government Pleader.

2 Sanction may kindly be accorded for the above expenditure of Rs.36/-.

3 The expenditure of Court costs (Rs.3--4--0) is debitable to "25 General Administration - C. Secretariat and Head Quarters Establishment - Local Fund Audit Establishment - A. Examiner's Office - Other Charges Authorised - Other Contingencies", the Government Pleader's fee (Rs.15--0--0) is debitable to "27 - Administration of Justice - B. Law Officers - C. Allowances and Honoraria - Authorised - Honoraria - Fees to Government Pleader" and the sum of Rs.17/12/- being the costs decreed to be paid to the petitioner is debitable to the head "Charged" under "25 General Administration - C. Secretariat and Head Quarters establishment - Local Fund Audit Establishment - A.Examiner's Office - 3 Other Charges - Other Contingencies."

I have the honour to be,
Sir,
Your most obedient servant,

For Examiner of Local Fund Accts.

K.A.24/11.

Encl:- Copy of letter No.Ref.4547/44-B1 d/22-10-1945 of the Collector.(1)
Certified copies of judgment and decretal order (2).

(iii) that the assessment is in accordance with the scale fixed by the District Board ;

NOTE.—About 2 per cent of the assessments in the demand register should be tested.

(iv) that Government and Railway buildings have been assessed in accordance with instructions 48 and 51 of the Union Manual, Part I ;

(v) that steps have been taken to assess in time houses newly constructed, enlarged or improved ;

(vi) that in the case of exemptions of schools from taxation, information is forthcoming that the schools have not been carried on for private profit ;

(vii) that notices have been issued in all cases of new assessments or alterations in the existing assessments as required by section 79 (2) of the Act ;

(viii) that the several columns in the demand register for door number, assessment number, annual value, etc., have been duly filled up and the assessment numbers are consecutive ;

(ix) that all alterations in assessments have been carried out in the demand register and authenticated by the initials of the chairman ; and that there are no erasures or unattested alterations ;

(x) that pagewar totals and an abstract thereof at the end of the register have been made and the total demand and the last assessment number stated in words and certified to by the chairman ;

(xi) that all remissions other than those within the powers of the Union Chairman have been sanctioned by the Taluk Board ; that writes-off have been sanctioned by the Union Panchayat ; that both the remissions and writes-off have been duly noted in the demand register against the items concerned ; and that the bills concerned have been defaced with the words 'remitted' or 'written off' with a quotation of the number and date of the resolutions sanctioning the remissions or writes-off ;

(xii) that a certificate of verification of the outstandings with the corresponding bills and warrant receipts, if issued, has been recorded by the chairman in the demand and arrear demand registers ;

(xiii) that items outstanding at the end of the year have been noted in the register in the column provided for the purpose and that they have been transferred to the arrear demand register.

16. *Register of private scavenging and cess-pool fees*—

(i) that the fees have been levied in accordance with the rates approved by the President of the Taluk Board ;

(ii) that the total receipts from fees cover the cost of the scavenging establishment as far as possible ;

(iii) that fees are collected as far as possible before the end of the month or quarter to which they relate ;

(iv) that fees, when not paid on demand, are recovered by distraint under clause (2) of section 117 of the Act ;

(v) that the register is maintained in the prescribed form and additions and alterations therein are made as fresh applications or notices of discontinuance are received ;

(vi) that a portion of the demand register is set apart for the record of cess-pool fees ;

(vii) that bills are prepared monthly or quarterly in the prescribed form from the demand register and receipts granted for payment of fees ;

Copy of the letter No.Ref.4547/41-B1 dated 22nd October 1945 of the Collector, Bellary to the Examiner of Local Fund Accounts, MADRAS.

* * *

Sub:- SURCHARGE - Kottur Panchayat Board - Sri M.M.J. Chenna basayya - Ex.President - appeal allowed - particulars of expenditure etc. - furnished.

Ref:- Your L.F.No.3039 dated 6-8-45.

* * *

I send herewith a public copy of the decree received from the Government Pleader in O.P.No.44/44 on the file of the District Judge, Bellary together with a copy of his letter G.C. 109/45, dated 4-10-1945.

2 He has furnished a bill for Rs.18/8/-. This is a mistake for Rs.18/4/-. The particulars are furnished below:

| | | |
|---|---|---|
| 1. | Rs.0/12/0 and Rs.0/12/0 | for document list. |
| 3. | " 1/4/- | for judgment copy. |
| 4. | " 15/0/0 | Pleader's fee. |
| 5. | " 0/8/0 | Decree copy. |
| Total. | " 18/4/- | |

3 An amount of Rs.17/12/- has already been paid from my xxx contingencies for items 1 to 4. Please arrange to send this amount to this office to recoupe my contingencies amount. As regards item 5, the Government Pleader has now submitted a contingent bill for Rs.0/8/0 being the expenditure for obtaining a public copy of the decree. It is enclosed herewith. Early arrangements may kindly be made for payment of this amount to the pleader.

/True copy/

K.A.24/11.

SUPERINTENDENT
Office of the Examiner of L.F. Accounts, Madras.

Act, 1919, under rule 14 (*a*) or (*b*) of Schedule V or any other provision of the City Municipal Act, 1919 : and (2) whether a refund granted in any or all of the above cases is not surchargeable under rule 21 (1) of Schedule V of the Act on the person who makes the payment from the Corporation fund.

## Opinion No. 24.

There is some difficulty in answering the questions propounded. The facts are stated one way in the " Note to the Advocate-General." The note of the Revenue Officer of the Corporation asserts that the three officers have been ascertained to be entitled to exemption without stating in detail the facts ascertained.

Voluntarily payments cannot be recovered back as money had and received. Payments made under a mistake can be so recovered but not if the mistake was one of law merely. Payment by a person entitled to exemption under a provision of law in ignorance of the provision is payment under a mistake of law. A payment without protest and even without demand canno be recovered back on the ground of ignorance at the time of the payment that the payer has a right to exemption under the law.

While the person who makes a voluntary payment cannot maintain an action for money had and received to his use, the person who receives

5/ Finance Dept

CNO. 54653 11/12. Local Fund Audit Dept -- Surcharge - Appeal - O.P. No. 44 of 1944 on the file of the District Court, Bellary - Payment of fees and costs to Govt. Pleader and costs to petitioner - Sanctioned.

SD 17.12.45

Read: From the Examr. of L.F. Accts., No. LF. 6422. dy 26.11.

ORDER No. 1304 dy 14.12.1945

MS.

Sanction is accorded to the incurring of an expenditure of Rs. 36/- (Rupees Thirty-Six only) in connection with O.P. No. 44 of 1944 (On the file of the Dt Court, Bellary) as shown below.

para 2 on p. 1 CF

| | Rs. | Head of Debit |
|---|---|---|
| (1) Fees to Govt. Pleader, Bellary | 15-0. | 27. Admn. of Justice 6. Law Officers - C. Allowances and Honoraria - Authorised Honoraria - Fees to Govt. Pleader. |
| Court costs to Govt. Pleader, Bellary | 3-4 | 25 Genl. Admn. - m. Sectt. & Hd. Qrs. Estts Local Fund Audit Dept. - A. Examiner's Office Other charges - Autho other contingencie |
| Costs to Petitioner. | 17-12 | 25 Genl. Admn. m. Sectt. & Hd Qrs Estts Local Fund Audit & A. Exam's Office 3 Other charges - Other Contingencies - Charg |

para 3 on p. 1 CF

para 3 on p. 1 CF

The amount to be paid to the Govt. Pleader would be the difference between the sum of the amounts due to him under items (1) and (2) a

6 / 7

C

Rs 18-4-0 and the amounts actually disbursed to him by the Collector viz. Rs 17-12-0 which A will be recouped to his contingencies.

Put A
4.12.45
3.12.45

4.12.45

To the A.G Madras
Exam^r of L.F Accts
(with enl)
Govt Pleader,
Bellary
VD
5.12.45

Finance (Exp A)

NOTE

Home and L.A may see before issue.

Put A
3.12.45
3.12.45

4.12.45

5.12.45

Home Dept

Three Pers
5.12.45

The draft order on pp 1-2 above may be perused and the file passed on to the L.A.

5/12/45

Dept
8.12.45
10.12.45

11/12/45 L A

Home No
46262-C1

46262 F
6.12.45

L.A Dept

The draft order on pp 1-2 above may be perused and the file passed on to the Fin

Dept W.O.
12/12/45
12.12.45

13.12.45

Fin (Exp A)

L.A.W.O. 32378-1C
13.12.45

89
12.12.45

Home

14.12.45

Dp 13.12.45

(Issued as G.O. 1304 Fin dy 14-12-45)

14 DEC 1945

5808/Exp A